

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THIS DOCUMENT APPLIES TO
PLAINTIFF(S):

MARION GORDON, INDIVIDUALLY,
AND AS ADMINISTRATRIX OF THE
ESTATE OF JOHN GORDON, DECEASED

Plaintiff

v.

☐ AMYLIN PHARMACEUTICALS, LLC,
☐ ELI LILLY AND COMPANY,
☒ MERCK SHARP & DOHME CORP.,
☐ NOVO NORDISK INC.,

(Check all the above that apply)

Defendants

Pertains To Civil Action No.:
13md2452-AJB-MDD

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**AMENDED SHORT FORM
COMPLAINT FOR
DAMAGES**

Case No.: 13md2452 AJB(MDD)

SHORT FORM COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff(s) named herein, and for Complaint against the
Defendants named herein, incorporates and fully adopts the Master Form Complaint
(the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows
the Court as follows:

JURISDICTION AND VENUE

1. Jurisdiction in this Complaint is based on:

☒ Diversity of Citizenship

☐ Other (As set forth below, the basis of any additional ground for
jurisdiction must be pleaded in sufficient detail as required by the
applicable Federal Rules of Civil Procedure):

2. District Court and Division in which you might have otherwise filed absent the direct filing order entered by this Court: Twin Falls County Courthouse, Civil Division

3. Plaintiff(s) further adopts the allegations contained in the following paragraphs of the Jurisdiction and Venue section of the Master Complaint:

☒ Paragraph 10;

☒ Paragraph 11;

☒ Paragraph 12;

☒ Paragraph 13;

☒ Paragraph 14;

☒ Paragraph 15; and/or

☐ Other allegations as to jurisdiction and venue (Plead in sufficient detail in numbered paragraphs (numbered to begin with 3(a)) as required by the applicable Federal Rules of Civil Procedure): _____

PLAINTIFF/INJURED PARTY INFORMATION

4. Injured/Deceased Party's Name: John Gordon (the "Injured Party").

5. Any injury (or injuries) suffered by the Injured Party in addition to those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to have been caused by the drug(s) ingested as set forth below (put "None" if applicable): None

6. Injured Party's spouse or other party making loss of consortium claim: Marion Gordon, surviving spouse

7. Other Plaintiff(s) and capacity, if Injured Party is deceased or otherwise incapacitated (i.e., administrator, executor, guardian, representative, conservator, successor in interest): _____

8. City(ies) and State(s) of residence of Injured Party at time of ingestion of the Drug(s): Twin Falls, Idaho

9. City and State of residence of Injured Party at time of pancreatic cancer diagnosis (if different from above): _____

10. City and State of residence of Injured Party at time of diagnosis of other Injury(ies) alleged in Paragraph 5 (if different from above): _____

11. If applicable, City and State of current residence of Injured Party (if different from above): _____

12. If applicable, City and State of residence of Injured Party at time of death (if different from above): _____

13. If applicable, City and State of current residence of each Plaintiff, including any Consortium and or other Plaintiff(s) (i.e., administrator, executor, guardian, representative, conservator, successor in interest): Twin Falls, Idaho - Marion Gordon, surviving spouse and personal representative

14. Check box(es) of product(s) (the "Drugs") for which you are making claims in this Complaint:

☐ Byetta. Dates of use: _____

☒ Januvia. Dates of use: February 18, 2016 – October 18, 2018

☐ Janumet. Dates of use: _____

☐ Victoza. Dates of use: _____

15. Date of pancreatic cancer diagnosis: October 31, 2018

16. If applicable, date of other injuries alleged in Paragraph 5: _____

17. If applicable, date of death: November 2, 2018

DEFENDANTS NAMED HEREIN

(Check Defendants against whom Complaint is made)

☐ Amylin Pharmaceuticals, LLC

☐ Eli Lilly and Company

☒ Merck Sharp & Dohme Corp.

☐ Novo Nordisk Inc.

CAUSES OF ACTION

(Counts in the Master Complaint brought by Plaintiff(s))

☒ Count I – Strict Liability – Failure to Warn

☒ Count II – Strict Liability – Design Defect

☒ Count III – Negligence

☒ Count IV – Breach of Implied Warranty

☒ Count V – Breach of Express Warranty

☒ Count VI – Punitive Damages

☒ Count VII – Loss of Consortium

☒ Count VIII – Wrongful Death

☒ Count IX – Survival Action

☐ Other Count(s): _____

Plead factual and legal basis for any Other Count(s) in separately numbered Paragraphs (beginning with Paragraph 18) that provide sufficient information and detail to comply with the applicable Federal Rules of Civil Procedure.

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2
3 PRAYER FOR RELIEF AND, AS APPLICABLE,
4 PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

5 WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master
6 Complaint filed in MDL No. 2452.

7 JURY DEMAND

8 Plaintiff(s) hereby ☒ demands ☐ **does not** demand a trial by jury on all
9 issues so triable.

10 Dated: July 27, 2020

11 RESPECTFULLY SUBMITTED,

12 /s/ Thomas F. Yost, Jr.
13 _____

14 Thomas F. Yost, Jr.
15 (FED 05487)
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